

**United States Patent Application**  
**COMBINED DECLARATION AND POWER OF ATTORNEY**

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: **FOOD QUALITY INDICATOR DEVICE**

The specification of which

- a. ☐ is attached hereto  
b. ☒ was filed on **July 16, 1998** as application Serial No. **09/116,152** and was amended on (if applicable) (in the case of a PCT-filed application) described and claimed in international no. filed and as amended on (if any), which I have reviewed and for which I solicit a United States patent.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, § 1.56 (attached hereto).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119/365 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

- a. ☒ no such applications have been filed.  
b. ☐ such applications have been filed as follows:

FOREIGN APPLICATION(S), IF ANY, CLAIMING PRIORITY UNDER 35 USC § 119			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)
ALL FOREIGN APPLICATION(S), IF ANY, FILED BEFORE THE PRIORITY APPLICATION(S)			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)

I hereby claim the benefit under Title 35, United States Code, § 120/365 of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. APPLICATION NUMBER	DATE OF FILING (day, month, year)	STATUS (patented, pending, abandoned)

hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

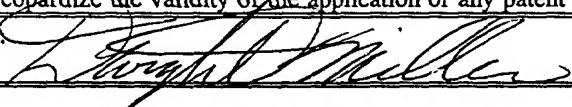

U.S. PROVISIONAL APPLICATION NUMBER	DATE OF FILING (Day, Month, Year)
60/052,674	16 July 1997

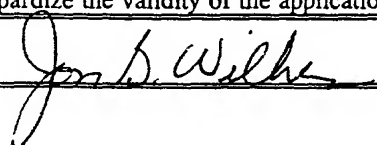
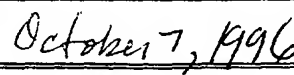
**Power of Attorney:** As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

James C. Haight, 25,588; Gloria H. Richmond, 30,416; Robert Benson, 33,612; Jack Spiegel, 34,477; Susan S. Rucker, 35,762; David R. Sadowski, 32,808; Laurence J. Hyman, 35,551; Steven M. Ferguson, 38,448; John Peter Kim, 38,514; Stephen L. Finley, 36,357; and Larry M. Tiffany, 40,844.

all of the Office of Technology Transfer, National Institutes of Health, Rockville, Maryland; with an Associate Power of Attorney to:

Brian H. Batzli, 32,960; Charles Berman, 29,249; Bruce E. Black, 41,622; Steven C. Bruess, 34,130; Charles G. Carter, 35,093; James R. Chiapetta, 39,634; Ronald A. Daignault, 25,968; Dennis R. Daley, 34,994; Mark J. DiPietro, 28,707; Michael B. Farber, 32,612; Alan G. Gorman, 38,472; John J. Gresens, 33,112; Randall A. Hillson, 31,838; Denise M. Kettelberger, 33,924; Alan W. Kowalchuk, 31,535; Douglas P. Mueller, 30,300; Albin J. Nelson, 28,650; John C. Reich, 37,703; John P. Sumner, 29,114; and David K. Telleson, 32,314.

<b>SEND CORRESPONDENCE TO:</b> <b>Merchant, Gould, Smith, Edell,</b> <b>Welter &amp; Schmidt, P.A.</b> <b>3100 Norwest Center</b> <b>90 South Seventh Street</b> <b>Minneapolis, MN 55402 - 4131</b>		<b>DIRECT TELEPHONE CALLS TO:</b> <b>Bruce E. Black</b> <b>(612) 371-5348</b>		
2	<b>Full Name</b> <b>Of Inventor</b>	<b>Family Name</b> MILLER	<b>First Given Name</b> DWIGHT	<b>Second Given Name</b> W.
0	<b>Residence</b> <b>&amp; Citizenship</b>	<b>City</b> PINE BLUFF	<b>State or Foreign Country</b> ARKANSAS	<b>Country of Citizenship</b> USA
1	<b>Post Office</b> <b>Address</b>	<b>Post Office Address</b> 2901 DAN ROAD	<b>City</b> PINE BLUFF	<b>State &amp; Zip Code/Country</b> ARKANSAS 71602/USA
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.				
Signature of Inventor 201: 			Date: 	

2	<b>Full Name</b> <b>Of Inventor</b>	<b>Family Name</b> WILKES	<b>First Given Name</b> JON	<b>Second Given Name</b> G.
0	<b>Residence</b> <b>&amp; Citizenship</b>	<b>City</b> LITTLE ROCK	<b>State or Foreign Country</b> ARKANSAS	<b>Country of Citizenship</b> USA
2	<b>Post Office</b> <b>Address</b>	<b>Post Office Address</b> 621 CUMBERLAND #1	<b>City</b> LITTLE ROCK	<b>State &amp; Zip Code/Country</b> ARKANSAS 72207/USA
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.				
Signature of Inventor 202: 			Date: 	

2	Full Name Of Inventor	Family Name CONTE	First Given Name ERIC	Second Given Name D.
0	Residence & Citizenship	City BOWLING GREEN	State or Foreign Country KENTUCKY	Country of Citizenship USA
3	Post Office Address	Post Office Address 1080 ST. ANDREWS CIRCLE	City BOWLING GREEN	State & Zip Code/Country KENTUCKY 42103/USA

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Signature of Inventor 203: *Eric D. Conte* Date: *Aug 29, 1998*

#### § 1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim;
- or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
    - (i) Opposing an argument of unpatentability relied on by the Office, or
    - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

